

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CHRISTOPHER KEITH,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-05-72-M
)	
REGINALD HINES, Warden, et al.,)	
)	
Defendants.)	

ORDER

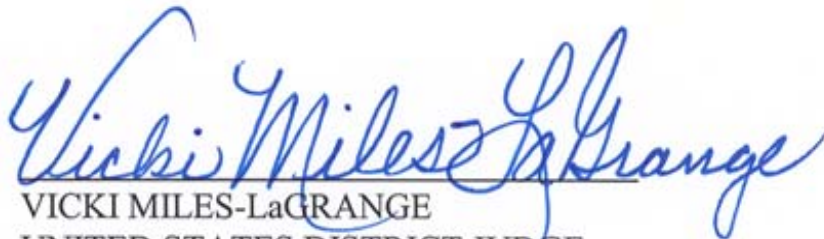
On February 9, 2006, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, in which Plaintiff alleges a violation of his constitutional rights. Magistrate Judge Roberts recommends: (1) that Defendant's "Motion to Dismiss / Motion for Summary Judgment" [docket no. 25] be granted in part as to Plaintiff's claims against all defendants in their official capacities and as to Plaintiff's claims of negligence and deliberate indifference regarding the fracture and treatment of, and refusal to provide reconstructive surgery / physical therapy on, Plaintiff's leg and be denied in all other respects; (2) that Defendant Reed be dismissed from the action; (3) that counsel be appointed for Plaintiff; and (4) that Plaintiff's "Motion for Injunction or Restraining Order" [docket no. 36] and "Motion for Independent Physical Examination" [docket no. 43] be denied without prejudice to refiling after counsel is appointed. The parties were advised of their right to object to the Report and Recommendation by March 1, 2006. Plaintiff timely filed his objections.

Having carefully reviewed this matter *de novo*, the Court agrees with Magistrate Judge Roberts' Report and Recommendation in all respects. Accordingly, the Court hereby:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation issued by Magistrate Judge Roberts on February 9, 2006;

- (2) GRANTS IN PART and DENIES IN PART Defendants' Motion to Dismiss / Motion for Summary Judgment [docket no. 25] as follows:
- (a) The Court GRANTS the motion as to Plaintiff's claims against Defendants in their official capacities and DISMISSES those claims,
 - (b) The Court GRANTS the motion as to Plaintiff's claims of negligence and deliberate indifference regarding the fracture and treatment of, and refusal to provide reconstructive surgery / physical therapy on, Plaintiff's leg(s) and DISMISSES those claims,
 - (c) The Court DISMISSES Defendant Reed from the instant action, and
 - (d) The Court DENIES the motion in all other respects; and
- (3) DENIES Plaintiff's "Motion for Injunction or Restraining Order" [docket no. 36] and "Motion for Independent Physical Examination" [docket no. 43] without prejudice to refiling after counsel is appointed.¹

IT IS SO ORDERED this 13th day of March, 2006.



VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE

¹In accordance with the recommendation of Magistrate Judge Roberts, the Court will appoint counsel for Plaintiff by a separate order.